

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

XPAYS, INC.,

Plaintiff,

v.

Case No. 12-cv-928-JPG-SCW

DOES 1-34,

Defendants.

MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 41) of Magistrate Judge Stephen C. Williams recommending that the Court find plaintiff Xpays, Inc. has improperly joined the defendants in this case, grant defendant John Doe 23’s motion to dismiss or sever (Doc. 24), dismiss defendant John Does 2-34 without prejudice and with leave for Xpays to file separate cases against each of those John Does, dismiss as moot all pending motions by the dismissed John Doe defendants (Doc. 21), and quash the subpoenas issued to the Internet Service Providers related to the dismissed John Doe defendants. With respect to the recommended remaining defendant, John Doe 1, Magistrate Judge Williams further recommends the Court issue a protective order allowing John Doe 1 to proceed anonymously until he enters his appearance, and order the Internet Service Provider as to John Doe 1 to provide the subpoenaed information as to John Doe 1.

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjection portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir.

1999).

The Court has received no objection to the Report. The Court has reviewed the entire file and finds that, with the exception of the failure to acknowledge that John Does 9 and 18 have already been dismissed with prejudice, the Report is not clearly erroneous. Accordingly, the Court hereby:

- **ADOPTS** the Report (Doc. 41) with minor modifications to reflect that plaintiff Xpays has already voluntarily dismissed defendant John Does 9, 18 and 31 with prejudice (Docs. 15, 28 & 37);
- **GRANTS** defendant John Doe 23's motion to dismiss or sever (Doc. 24);
- **DISMISSES without prejudice** all claims against defendant John Does 2-8, 10-17, 19-30 and 32-34;
- **DISMISSES as moot** all pending motions by the dismissed John Doe defendants (Doc. 21);
- **QUASHES** the subpoenas issued to the Internet Service Providers related to defendant John Does 2-8, 10-17, 19-30 and 32-34; and
- **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of the case.

By separate order, the Court will enter a protective order directing the Internet Service Provider for John Doe 1 to respond to the subpoena relating to John Doe 1 and allowing John Doe 1 to proceed anonymously until he enters his appearance.

IT IS SO ORDERED.

DATED: July 9, 2013

s/J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE